

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

GALLATIN RIVER COMMUNICATIONS)
L.L.C. D/B/A CENTURYLINK)

Petition for Arbitration Pursuant to)
Section 252(b) of the Communications Act)
of 1934, as amended by the)
Telecommunications Act of 1996)
To Establish the Rates, Terms and)
Conditions of Interconnection with)
NTS Services Corp.)

Docket No. _____

PETITION FOR ARBITRATION

Negotiation Request:	February 25, 2011
135 th Day Thereafter:	July 10, 2011
160 th Day Thereafter:	August 4, 2011
9 Months Thereafter:	November 25, 2011

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L.L.C. D/B/A CENTURYLINK

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**GALLATIN RIVER COMMUNICATIONS L.L.C D/B/A CENTURYLINK'S
PETITION FOR ARBITRATION**

Gallatin River Communications L.L.C. d/b/a CenturyLink ("CenturyLink"), by and through its counsel, hereby files this Petition for Arbitration ("Petition") before the Illinois Commerce Commission (the "Commission") for arbitration of certain terms, conditions, and prices for interconnection and related arrangements with NTS Services Corp. ("NTS"). This Petition is filed pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996¹, 47 U.S.C. § 252(b). CenturyLink respectfully requests that the Commission resolve two unresolved issues: (1) the TELRIC rate for unbundled 2 wire loops and (2) the TELRIC rate for unbundled DS1 loops. CenturyLink requests that the Commission order the Parties to incorporate

¹ 47 U.S.C. § 252(b); Telecommunications Act of 1996, Pub L No. 104-104, 110 Stat 56 (1996) (the 1996 Act). The 1996 Act amended the Communications Act of 1934, 47 U.S.C. § 151 *et seq.* The "Act" refers to the amended Communications Act of 1934.

language and prices reflecting CenturyLink's position into an Interconnection Agreement for execution by the Parties. CenturyLink agrees to accept service by electronic means as provided for in Section 761.1050 of the Commission's rules.

This Petition includes background information on the Parties, the Commission's jurisdiction, a brief history of the interconnection negotiations between NTS and CenturyLink, the applicable legal standards, and identification of the unresolved issues including the positions of both Parties on each of the issues. CenturyLink respectfully requests a reasonable opportunity to supplement this Petition to provide any additional information deemed necessary by the Commission.

I. THE PARTIES

1. NTS is a competitive local exchange carrier ("CLEC") whose principal place of business is 205 Enterprise Dr., Pekin, Illinois. NTS offers certain telecommunications services in and around Pekin, Illinois. During the negotiations between CenturyLink and NTS, the primary contacts for NTS have been:

Mr. Kristopher E. Twomey
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1725 I Street, NW, Suite 300
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kris@lokt.net

Mr. Dan Johnson
NTS Services Corp
205 Enterprise Dr.
Pekin, Illinois 61554
(309) 353-5632
(309) 346-3296 (FAX)

danjohnson@ntslink.net

2. CenturyLink is an incumbent local exchange carrier in certain exchanges in Illinois, including Pekin, Illinois. The primary contacts for CenturyLink are:

Mr. Thomas M. Dethlefs
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Tommy.Fields@CenturyLink.com

II. JURISDICTION

3. This Commission has jurisdiction over this Petition pursuant to Section 252(b)(1) of the Act.² Under the Act, either of the parties negotiating for interconnection, access to unbundled network elements, or resale of services within a particular state may petition the state commission for arbitration of any unresolved issues during the 135th day (July 10, 2011) to the 160th day (August 4, 2011) of such negotiations.³ CenturyLink files this Petition with the Commission on this date to preserve its rights under Section

² 47 U.S.C. § 252(b)(1).

³ 47 U.S.C. § 252(b).

252(b) of the Act and to seek relief from the Commission in resolving the unresolved issues.

III. HISTORY OF INTERCONNECTION AND RESOLVED ISSUES

4. CenturyLink and NTS have been interconnected for several years. Specifically, in August 2006, NTS and CenturyLink's predecessor, Gallatin River Communications, L.L.C., entered into and executed an interconnection agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "2006 Gallatin ICA").⁴ Pursuant to its terms, the 2006 Gallatin ICA irrevocably terminated effective November 28, 2009. CenturyLink duly provided notice to NTS of termination of the 2006 ICA per that agreement's terms.⁵

5. On December 3, 2009, NTS sent a bona fide request ("BFR") to CenturyLink to initiate negotiations for a replacement ICA and to continue to order interconnection services from CenturyLink on an interim basis using the terms of CenturyLink's template agreement.⁶ Moreover, as to applicable pricing, CenturyLink offered, and NTS accepted, to retain its existing pricing during the period in which the template ICA was in effect, with all pricing subject to true-up. Accordingly, since

⁴ CenturyTel, Inc. purchased the assets of Gallatin River's parent corporation, Madison River Communications Corporation, in 2007. The matter was approved by ICC order dated March 21, 2007 in Docket No. 07-0043. On November 11, 2008, CenturyTel, Inc. filed a Joint Petition with the ICC to acquire the assets of Embarq Corporation. The matter was assigned the docket number of 08-0645. By Final Order dated March 25, 2009, the Illinois Commerce Commission approved the Joint Petition. The transfer of control was completed upon close of the transaction with day 1 operations effective July 1, 2009. CenturyTel, Inc. changed its name to CenturyLink, Inc. upon shareholder approval on May 10, 2010.

⁵ The Parties also had met with ICC Staff and discussed this matter, among others, on November 19, 2009.

⁶ As contemplated under 47 C.F.R. § 51.715 (a).

December 3, 2009, CenturyLink and NTS have been operating under binding interim terms from the template ICA and have continued the pricing from December, 2009, albeit subject to true-up.

6. The Parties during 2010 attempted to no avail and to no success to negotiate towards a final and permanent interconnection agreement.⁷ To permit a continuation of operations under the Parties' interim arrangement subject to true-up, on December 9, 2010, Mr. Kristopher E. Twomey, Counsel to NTS, again formally requested negotiations of the terms and conditions of an interconnection agreement between CenturyLink and NTS pursuant to Sections 251 and 252 of the Telecommunications Act of 1996.

7. Upon receipt of NTS's December 2010 request for negotiation, NTS and CenturyLink renewed negotiation of the terms and conditions of a final and permanent interconnection agreement per Sections 251 and 252 of the Act. During the Parties' negotiation efforts in 2010, CenturyLink had provided its standard template interconnection agreement as a starting point. The Parties exchanged several redlined drafts of the template during the course of the negotiations. Ultimately, by early 2011, the Parties were able to reach agreement upon all of the terms and conditions for the final and permanent Section 251/252 Agreement except for ten pricing terms. In particular, the Parties were able to reach agreement on the language for the following ten sections of the ICA:

⁷ Although the Parties were unable to finalize a new agreement in 2010, neither Party triggered arbitration because there were no disagreements that at the time were considered to be unresolvable through continuing negotiations.

Preface and Recitals

Article I: Purpose, Intent and Scope of Agreement

Article II: Definitions

Article III: General Terms and Conditions

Article IV: Resale

Article V: Interconnection and Transport and Termination of Traffic

Article VI: Unbundled Network Elements (UNEs)

Article VII: Specific Terms for XDSL-Capable UNE Loops

Article VIII: Maintenance

Article IX: Additional Services

Article X: Access to Operations Support Systems

A copy of the draft agreement with the agreed to terms and conditions is attached as Exhibit A.

8. In an effort to resolve the ten unresolved pricing issues, and to meet the Commission's expectations for accomplishing the same objective, the Parties twice agreed to reset the BFR date to permit an adjustment of the arbitration window under Section 252(b)(1) of the Act. Under the second such stipulation, NTS and CenturyLink agreed that NTS requested negotiation of an interconnection agreement on February 25, 2011 and that the window for petitioning arbitration would run from July 10, 2011 through and including August 4, 2011. Ultimately, as discussed below, the Parties were able to agree on all of the price terms for the ICA except for prices for two network elements – two wire loops and DS1 loops. The documentation relevant to the resolution

of all but these two issues is attached as Exhibit B. Discussion of the pricing terms the parties were not able to reach agreement on is set forth in Section V below.

IV. APPLICABLE LEGAL STANDARDS

9. This arbitration must be resolved under the standards established in Sections 251 and 252 of the Act, the rules adopted and orders issued by the Federal Communications Commission (“FCC”) in implementing the Act, and the applicable rules and orders of this Commission. Section 252 of the Act requires that a state commission resolving open issues through arbitration:

- 1) Ensure that such resolution and conditions meet the requirements of Section 251, including the regulations prescribed by the [FCC] pursuant to Section 251; [and]
- 2) Establish any rates for interconnection, services, or network elements according to subsection (d) [of Section 252].

The Commission should make affirmative findings that the rates, terms, and conditions that it prescribes in this proceeding are consistent with the requirements of Sections 251(b) and (c), and 252(d) of the Act.

10. Section 252(d) of the Act sets forth the applicable pricing standards for interconnection under Section 251(c)(2) of the Act and network elements that are required to be provided on an unbundled basis pursuant to Sections 251(c)(3) and 251(d)(2) of the Act. Section 252(d)(1) requires that “[d]eterminations by a State commission of the just and reasonable rate for the interconnection of facilities and

equipment . . . and the just and reasonable rate for the network elements . . . shall be (i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and (ii) nondiscriminatory, and (B) may include a reasonable profit.”⁸ The FCC has interpreted this standard to require the pricing of interconnection and unbundled network elements required by Section 251(c) of the Act at Total Element Long Run Incremental Cost, or TELRIC.⁹ However, the Act permits parties to negotiate terms and conditions without regard to the requirements of Sections 251(b) and (c) of the Act.¹⁰

V. UNRESOLVED ISSUES AND POSITIONS OF THE PARTIES

11. The Parties have resolved all non-price issues regarding terms and conditions for a final and permanent Section 251/252 Agreement. However, the Parties have not reached agreement on the rates – i.e., the pricing – for unbundled two wire loops or unbundled DS1 loops. These two issues are discussed in this section. Pursuant to agreement reached in negotiations, NTS does not presently dispute any of the other rates in the ICA attached as Exhibit A. The rates that CenturyLink has offered are derived from a TELRIC cost study. The Parties have had numerous discussions concerning CenturyLink’s cost study for two wire loops and DS1 loops but have not made any significant progress in closing the gap on these two issues.

⁸ 47 U.S.C. § 252(d)(1)(A).

⁹ First Report and Order, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd. 15499, ¶¶674-703 (Rel. August 8, 1996)(*subsequent history omitted*).

¹⁰ 47 U.S.C. §252(a)(1).

Issue 1 – 2-Wire Loop

CenturyLink Position. CenturyLink's cost study correctly calculates the TELRIC monthly recurring cost of three different rate bands for two wire loops. The lowest rate derived by CenturyLink under the TELRIC methodology is the Band 1 2-wire loop monthly recurring rate of \$26.85. The Band 2 2-wire monthly recurring loop rate derived by TELRIC is \$52.83 per loop and the Band 3 2-wire monthly recurring loop rate derived by TELRIC is \$106.72.

NTS Position. NTS asserts that CenturyLink's Band 1 loop rate is not supported by a proper TELRIC cost study. According to NTS, CenturyLink's annual charge factors consisting of cost of capital, maintenance, taxes and certain other direct costs appear too high. During negotiations, NTS has not yet proposed alternative annual charge factors or specific cost amounts to replace those contained in the cost study provided to NTS. Rather, in its only compromise after its initial proposed \$8.96 monthly recurring loop rate, NTS proposed that a Band 1 monthly recurring loop rate of \$12.50 per loop would be appropriate. NTS's proposal is not based on a TELRIC cost study and is less than one-half the TELRIC rate calculated by CenturyLink.

Issue 3 - DS1 Loop

CenturyLink Position. CenturyLink's cost study correctly calculates the TELRIC monthly recurring cost of three different rate bands for DS1 loops. Under CenturyLink's cost study, the TELRIC monthly recurring cost for a Band 1 DS1 loop is

\$121.97 per loop. The TELRIC monthly recurring cost for a Band 2 DS1 loop is \$282.16 and the TELRIC monthly recurring cost for a Band 3 DS1 loop is \$618.79.

NTS Position. NTS proposes a \$99 rate for a Band 1 DS1 loop and contends that this is the rate that AT&T charges in Bartonville, IL. This AT&T rate is not specific to Bartonville but rather is a banded rate for numerous exchanges that includes Bartonville. Furthermore, the Bartonville exchange for AT&T includes the Peoria International Airport and its business surroundings. NTS's proposal is not based on a cost study for CenturyLink in Illinois. NTS contends that CenturyLink's TELRIC cost inputs for the DS1 loop are too high, but as with the case of 2 wire loops, NTS has not proposed alternative cost inputs to be used in CenturyLink's cost study.

Discovery

Pursuant to Commission Rule 761.110(a)(4), CenturyLink attaches its discovery requests to NTS as Exhibit C.

VI. CONCLUSION

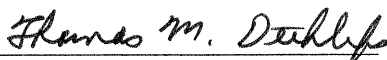
The TELRIC-derived rates CenturyLink has offered for the disputed network elements are consistent with the FCC's Rules, public policy and with the public interest. CenturyLink respectfully requests that the Commission:

1. Conduct an arbitration pursuant to Section 252(b) of the Act, 47 U.S.C. §252(b);

2. Resolve the above-listed unresolved issues between the Parties in CenturyLink's favor, explicitly finding that CenturyLink's offered contract and pricing proposals are consistent with applicable law and just and reasonable;
3. Find and issue an order adopting the Parties agreed-upon terms and conditions;
4. Issue an Order adopting the Proposed Interconnection Agreement of CenturyLink together with the CenturyLink price list, attached hereto as Exhibit A; and
5. Grant such other relief as is fair and justified.

Respectfully submitted,

August 3, 2011

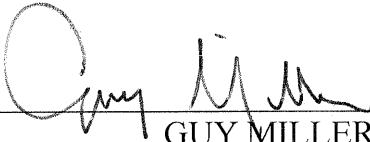

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PARISH OF OUACHITA)

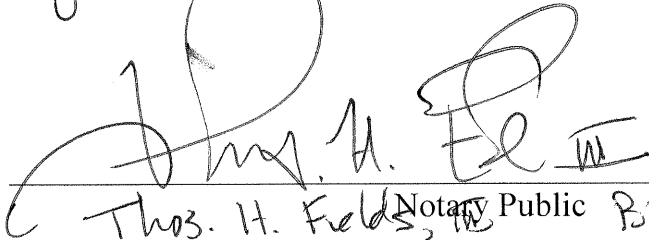
VERIFICATION

I, Guy Miller, do on oath depose and state that the facts contained in the foregoing
Petition for Arbitration are true and correct to the best of my knowledge and belief.



GUY MILLER

SIGNED AND SWORN TO BEFORE ME THIS 1st day of
August, 2011.



Thos. H. Fields, Notary Public B22 No. 26880

My Commission expires:

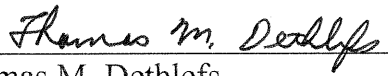
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CERTIFICATE OF SERVICE

The undersigned attorney for Gallatin River Communications L.L.C. d/b/a CenturyLink hereby certifies that he caused copies of the attached Petition for Arbitration and discovery requests to be served on each of the persons listed below in the manner indicated:

Mr. Kristopher E. Twomey
Law office of Kristopher E. Twomey, P.C.
1725 I Street, NW, Suite 300
Washington, DC 20006
[VIA FEDERAL EXPRESS DELIVERY ON August 3, 2011]

Mr. Dan Johnson
NTS Services Corp.
205 Enterprise Dr.
Pekin, Illinois 61554
[VIA FEDERAL EXPRESS DELIVERY ON August 3, 2011]



Thomas M. Dethlefs

Counsel for Gallatin River Communications L.L.C.
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